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# **BHD Provider Bulletin**

DATE: June 29, 2012

TO: Residential and Day Habilitation Providers, Case Managers

FROM: Joe Simpson, Administrator, Wyoming Department of Health, Behavioral Health Division,

Developmental Disabilities Section

SUBJECT: Supervision Level Requirements in Habilitation Services

REF: JS-2012-042

In November 2010, the Wyoming Department of Health, Behavioral Health Division (the Division) issued a memorandum in response to concerns expressed by providers regarding the staffing levels previously initiated by the Division due to the tiered rate structure. Those staffing levels or ratios were initiated for funding purposes and reflected the staffing expectation for each participant receiving residential and day habilitation services on the Adult Developmental Disabilities (DD), Child DD, and Acquired Brain Injury waivers. The policy stated in the memorandum was a direct result of recommendations from the Select Committee on Intellectual and Developmental Disabilities along with various stakeholders. The policy allowed providers to have more flexibility in providing staff support to participants. Since that time, the Division has reviewed many serious incidents, complaints, and issues where the health and safety of participants has been greatly jeopardized due specifically to the provider's failure to ensure appropriate staffing as identified in the participant's plans of care. It was never the intent of the memorandum to allow flexibility in staff support to the extent that a participant's health, safety, habilitation, or community access needs would be compromised in order to meet the needs of the provider. The policy in that memorandum clearly outlined that providers were to continue to provide staff support that would meet each participant's particular needs. As a result of these misunderstandings, this provider bulletin supersedes the November 2010 memorandum. The November 10, 2010 staffing flexibility memorandum will no longer be in effect as of August 15, 2012.

Waiver providers have a responsibility to ensure the health and safety of all participants receiving their services and ensure habilitation and community access are a part of the service being delivered. Division staff will continue to monitor providers to ensure that the services approved and utilized are meeting the service expectations outlined in each participant's individualized plan of care. The Division is also implementing:

1) Stricter staffing requirements for all participants in residential and day habilitation.

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2) A requirement for providers to have a systematic approach to staffing each service environment adequately. Provider organizations employing staff must have a working knowledge of the services and supports that are appropriate and relevant for the needs of each person served in their organization and staff appropriately to meet the needs of participants throughout the day, recognizing peak activity times, on-call needs, behavioral and medical needs, and habilitation and community integration needs of the participants served in their organization.

June 29, 2012

Ref: JS-2012-042

## **SUPPORT REQUIREMENTS**

Services to participants receiving residential and/or day habilitation funding shall reflect the appropriate staff expectations as originally designed for those tiers. For example:

- For those participants receiving funding at the "intensive" support level, it will be the expectation of the provider that the staffing support shall be no less than a 1:1 ratio during all waking hours.

  As a reminder, the Division rate for 1:1 is \$326.87 during residential habilitation and \$174.57 during day habilitation. During week days this is a daily total of \$501.44. Providers need to provide staffing that reflects that level of care.
- For those participants receiving funding at the "high" support level, it will be the expectation of the provider that the staffing support shall be no less than a 1:2 ratio during all waking hours.
- For those participants receiving funding at the "moderate" support level, it will be the expectation of the provider that the staffing support shall be no less than a 1:3 ratio during all waking hours.
- For those participants receiving funding at the "intermittent" support level, it will be the expectation of the provider that the staffing support shall be no less than a 1:4 ratio during all waking hours.

The flexibility allowed to a provider can be during a participant's normal sleeping hours only and only if the plan of care for the participant allows this flexibility. Providers need to ensure appropriate staffing during sleeping hours that addresses emergency plans and processes in place that would allow for safe evacuation of participants, including adequate staff to carry out these plans and provide supports required per the plan of care for the participant. By November 2012, providers shall have an assessment/evaluation from the local emergency response unit for each group home location to assess evacuation requirements and recommendations they would have for sleeping hours, regular capacity evacuation. Documentation of their assessment or recommendations shall be kept on file with the provider and be made available to the Division upon request.

If additional staffing is warranted for participants to a higher tier because of frequent behavioral or medical needs, providers must obtain special approval from the Division's Participant and Provider Support Managers. Division staff will review documentation and verify the staffing pattern that is being provided to determine the need for an increase in the support level and that the episodic needs for an additional staff are frequent enough that an increase in support level would be appropriate. Documentation and verification on staffing regarding other participants in that service area will be a part of the review. Verification may be acquired through staffing records, observations, interviews, or a review of service documentation.

Any participants receiving higher funding as a result of approval through the Extraordinary Care Committee process will be expected to follow the precise staff support ratio approved and provided through that process by adhering to the staffing support ratios as mentioned above.

## PROVIDER POLICY REQUIREMENT

Wyoming Department of Health Medicaid Rules Chapter 45 §27(h) require all providers to "assure that services being provided meet the definition of the service and are provide pursuant to the participant's individual plan of care." Additionally, all persons providing services to waiver participants must be trained on the individual participant's plan of care, including supervision levels, before working with the individual participant, Wyoming Medicaid Rules, Chapter 45 §26(b)(ii). These protections ensure that the health and safety of waiver participants is being protected, and addresses the support needs of each person served by the provider. In order to meet this requirement, providers must have a systematic approach to staffing each service environment adequately. Provider organizations employing staff must have a working knowledge of the services and supports that are appropriate and relevant for the needs of each person served in their organization. This standard aligns with the 2012 CARF standards for Aspire to Excellence Section 1.I.1.(a),(b),(c) and (d) and Community Services Coordination Section 4.B.2 (a), (b).

Therefore, all residential and day habilitation providers must develop and implement policy and procedures that <u>demonstrate</u> functional control of the personnel assignments to each waiver service environment, based on the needs of each participant. As your organization's staffing policies and procedures are reviewed for compliance with this standard, the following components shall be included:

- Staffing Planning. The provider shall have a systematic process they follow to ensure an adequate number of appropriately trained staff will be onsite to ensure the safety of participants in their services and meet each participant's established outcomes as identified in the plan of care. Determining the appropriate staff person(s) and the number of staff for a service setting shall include, but is not limited to, the consideration of the following factors for all participants in the same service environment:
  - ✓ The participant's approved funding tier
  - ✓ Varying support/supervision needs
  - ✓ Medical and Medication assistance
  - ✓ Activities of Daily Living (ADL)
  - ✓ Participant illness, need to stay home
  - ✓ Habilitation and Objective training
  - ✓ Social interaction

- ✓ Community integration
- ✓ Employee background check status
- ✓ Special events and holiday participation and coverage

June 29, 2012 Ref: JS-2012-042

- ✓ Incidents involving participants
- ✓ Division training requirements
- ✓ Other provider organizational requirements
- On-call system. The provider shall have an on-call system and written process, which demonstrating control and coordination of on-call personnel to assist and intervene with participant support as situations require for the service they provide.
- Verification of staffing. The provider shall have a written process showing:
  - ✓ How the organization assigns staff, such as home or group assignments, pay records, etc.
  - ✓ Data archives showing "who worked, where they worked, and when."
  - ✓ Evidence of policy and procedure deployment, which verifies that provider staff know the process used by the organization for assigning staff, accessing on-call staff, documenting their time on shift and specific participants with whom they worked.

The result of this organizational staffing standard shall be that the organization has evidence for ensuring the health, safety, habilitation and community integration opportunities of participants with sufficient staffing levels to meet the needs of each participant as identified in each plan of care.

#### IMPLEMENTATION AND MONITORING

Providers must begin compliance with the staffing levels and staffing policy and evidence requirements listed in this bulletin as of August 15, 2012. The November 10, 2010 staffing flexibility memorandum will no longer be in effect as of August 15, 2012. The Division will continue to closely monitor the staff supports being provided to ensure that all participants' needs are being met appropriately and will be monitoring specifically on appropriate staffing levels beginning September 1, 2012.

June 29, 2012

Ref: JS-2012-042

If a case manager, other provider, family member, stakeholder or Division employee observe a staffing situation, pattern, trend, or other concern with waiver services, they are first encouraged to address the concern with the provider to work toward a prompt solution. Any staffing issue that creates a health or safety concern should always be reported to the Division for immediate follow-up. Also, case managers are responsible for ensuring services are delivered as specified in the plan. If a case manager finds a provider not adhering to the necessary support levels for a participant, the case manager shall address the concern to the appropriate administration at the provider agency, following the provider's grievance/complaint policy if needed. The case manager should document all discussion and/or written complaints. If it is found by the Division or by the case manager that current approved staffing ratios are not being met, then the plan of care team shall convene to determine if the currently provided staffing is sufficient to meet the person's needs. If so, the plan should be modified within 60 days to reflect the actual staffing being provided that is meeting the person's needs.

Beginning September 1, 2012, any case found by a case manager or Division staff that shows a staffing ratio not following the approved plan of care shall refer the case to the Provider Support Unit for possible service changes, referral, recovery of funds and/or other immediate action. The Division shall be notified in a timely manner if there are critical or systemic issues found or if the requests to resolve a service issue is not resolved. The Division shall monitor situations as needed and through routine provider visits, such as site surveys, service observations, and incident or complaint investigations and shall follow up using the current monitoring processes.

## TECHNICAL ASSISTANCE

The Division has a *Sample* Policy and Procedure document for Provider Staff Scheduling. This sample is available on the Division's website and is attached to this E-mail. It may be used to help your organization expand your current policies and procedures on staffing or it may be personalized by your agency and implemented as it is written, using your own staff titles and business practices.

# **QUESTIONS**

Additional training and discussion on these requirements shall be held during a Provider Support Call on August 2<sup>nd</sup> at 2 pm via conference call at 1-877-278-8686 access code 252484. Please save the date and time if you are interested in participating or asking questions. As always, submit your questions to us ahead of time to help us prepare the most thorough response to your question before the call.

The Division believes these changes will support providers in having the flexibility needed to operate their business in the most appropriate manner while continuing to ensure that participants' needs are met according to their plan of care. We will continue to work together with our stakeholders as we implement these changes and review their effectiveness over the next year. Please contact your local Provider Support Specialist or a Division Manager at (307) 777-7115 if you have concerns or questions regarding these changes and requirements.